

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.294 of 2018
and C.M.P.No.7524 of 2018

K.Karthika

... Petitioner/Respondent

Vs.

V.Rajeshkumar

... Respondent/Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.17 of 2018 pending on the file of the Sub Court, Kangeyam and transfer the same to the file of the Family Court, Salem.

For Petitioner : Mr.R.Chakkaravarthy

For Respondent : Mr.B.R.Shankaralingam

O R D E R

This petition is filed to withdraw H.M.O.P.No.17 of 2018 pending on the file of the Sub Court, Kangeyam and transfer the same to the file of the Family Court, Salem.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.09.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Kangeyam, Tiruppur District. In the wedlock, a male child was born on 04.12.2016 and the child died on 09.01.2017. Due to harassment made by the respondent by demanding dowry, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.17 of 2018 on the file of the Sub Court, Kangeyam, for divorce against the petitioner.

3.According to the petitioner, she is working as Assistant Professor at Shri Sakthikailassh Women's College, Salem and residing along with her aged parents at Salem. The distance between Salem and Kangeyam is more than 110 kilometers and hence, it will be very difficult for the petitioner to travel such a long distance to attend the Court proceedings at Kangeyam

for each and every hearing. The respondent is not working and it will not be any difficult for him to travel from Kangeyam to Salem to attend the Court proceedings. Further, the petitioner stated that she apprehends life threat at the hands of the respondent and his parents, when she attends the Court proceedings at Kangeyam. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.17 of 2018 pending on the file of the Sub Court, Kangeyam, to the file of the Family Court, Salem.

4.The learned counsel for the respondent submitted that the petitioner did not appear before the Sub Court, Kangeyam and her appearance is not necessary. But presence of spouse is mandatory for each and every hearing in the Family Court, Salem and hence, it will be very difficult for the respondent to attend the Court proceedings regularly and prayed for dismissal of the transfer petition.

5.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent and well settled judicial pronouncement of the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.17 of 2018 is ordered to be withdrawn from the file of the Sub Court, Kangeyam and transferred to the file of the Family Court, Salem. The learned Subordinate Judge, Kangeyam, is directed to transmit all the records pertaining to H.M.O.P.No.17 of 2018 to the file of the Family Court, Salem, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Kangeyam.

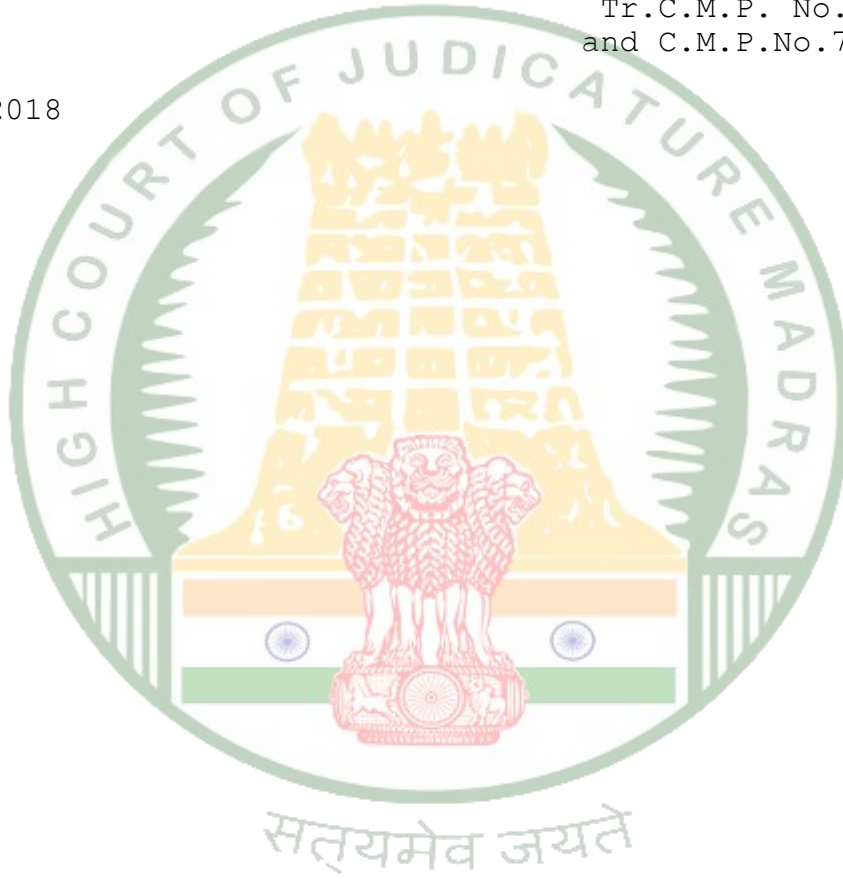
2.The Judge, Family Court, Salem.

+2cc to Mr.R.Chakkaravarthy, Advocate sr.no.37746

+1cc to Mr.B.R.Shankaralingam, Advocate sr.no.38413

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